federal register

WEDNESDAY, AUGUST 9, 1978
PART V

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

IMPORTATION OF BIRDS

Financial Responsibility For Costs Associated With Maintenance and Operation of Approved Quarantine Facilities

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Importation of Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations which relate to financial responsibility for costs associated with the maintenance and operation of approved quarantine facilities for the importation of birds, and gives notice requiring importers to reimburse Veterinary Services for all costs incurred which are associated with the maintenance and operation of such facilities. This action is necessary in order to recover costs incurred by Veterinary Services in providing services required by the importer which are associated with the operation and maintenance of approved quarantine facilities for importation of birds. The intended effect of this action is to reimburse Veterinary Services for funds expanded in servicing approved quarantine facilities for importation of birds. This rule is of an emergency nature because the Department anticipates that it will not have funds to provide the services subsequent to October 1, 1978.

DATES: Effective date: October 1, 1978. Comments must be received on or before September 8, 1978.

ADDRESSES: Comments should be addressed to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 817, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. George P. Pierson, USDA, APHIS, VS, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f, respectively), and the Act of July 24, 1919, and section 603(a) of the Act of August 30, 1972 (7 U.S.C. 450b and 2201, respectively), the Animal and Plant Health Inspection Service is amending part 92, title 9, Code of Federal Regulations.

The regulations in 9 CFR 92.11(e) require that each lot of commercial birds, zoological birds or research birds imported into the United States be quarantined for a minimum of 30 days at a USDA quarantine facility or in a facility provided by the importer and approved by the Deputy Administrator. Section 92.11(f) provides that to qualify as an approved quarantine facility and to retain such approval, certain standards for approved quarantine facilities and handling procedures for importation of birds must be met and that the cost of the facility and all costs associated with its maintenance and operation shall be borne by the importer. Section 92.12(a) provides that the Deputy Administrator, Veterinary Services, may prescribe reasonable rates for the costs to the Department incurred in the care, feed and handling, inspection, and other services provided with respect to the animals from the time of unloading at a quarantine port to the time of release from quarantine.

Originally, a limited number of quarantine facilities was approved, and the costs incurred by the Department in servicing these facilities were minimal. Consequently, the Department did not exercise its authority to recover such costs. However, the number of approved quarantine facilities has steadily increased to a total 78 facilities, and costs to the Department in providing services have increased accordingly. It now appears that effective October 1, 1978, no funds will be available to service these facilities. Therefore, the Deputy Administrator, Veterinary Services, is prescribing reasonable rates for all services provided to importers which are associated with the maintenance and operation of approved quarantine facilities for the importation of birds and to recover from the importer or his agent all costs incurred by Veterinary Services in providing such services.

In order to provide importers that will be affected by the anticipated cutoff of funds time to reevaluate their positions and to obtain import permits under these regulations, if they so desire, without an interruption of such services, it is necessary to publish these regulations to become effective October 1, 1978. This is required because no permit to import birds can be issued after August 1, 1978, unless it is known where the money to pay the cost of such service will be derived from as of October 1, 1978. However, the Department is publishing this rule on an interim basis in order to permit public participation in the rulemaking process.

The charge for services involves costs for initial entry service, required inspection service, security service, shipping charges for forwarding diagnostic specimen collected to the laboratory for examination, and laboratory costs incurred by the Department. The initial entry service costs include travel to and from port and/or quarantine station, meeting birds at the port of entry, escorting birds to the quarantine facility, inspecting and counting birds and the examination of birds found to be dead upon arrival.

Required inspection service costs include inspection of birds for evidence of disease, sanitary inspection of the facility, swabbing of live birds, the post mortem examination of dead birds, sample preparation, preparation of reports and supervision of cleaning and disinfection of the facility after the release of birds. The charge will be per lot to cover the entire quarantine and inspection period and one day for the supervision of cleaning and disinfection of the quarantine facility.

Security costs include guard service to maintain control of entrance and egress at the quarantine facility whenever persons other than APHIS representatives are in the facilities. This charge will be made at an hourly rate for the actual time required to service each shipment.

Shipping costs for diagnostic specimen forwarded to the laboratory for examination will be charged on an actual cost basis for each sample forwarded.

Laboratory costs include the processing of laboratory samples taken while the birds are under Veterinary Services supervision. One laboratory sample will contain five cloacal swabs or samples from one post mortem examination.

Estimated costs were calculated using fiscal year 1977 data from the eight States which actually have private quarantine stations. The costs developed by each of these stations were on a per-lot or per-entry basis. Weighted averages were then developed for the cost estimate by multiplying the time or cost factors in each State by the number of entries estimated or lots quarantined as appropriate. Where a station did not separate out an item, i.e., individual shipment, the item was estimated using weighted percentages calculated from the data from States where the item was separated out.

Hourly employee costs were calculated using the average hourly costs for each category of employee, i.e., veterinary medical officer, animal health technician, and bioaid from each State to develop a weighted average cost per man-hour for the eight States

involved. Man-hour costs for bioaids were only available from California and Hawaii. The California figure per man-hour was used for all States except Hawaii because this figure is believed to approximate the hourly employee costs for other mainland States.

The cost estimate for processing laboratory samples was based on data taken from the actual cost of operating the section of the National Veterinary Services Laboratories concerned with tests for VVND. The total cost of testing specimens for VVND was averaged by the number of specimens tested during fiscal year 1977.

After the above estimates for hourly employee costs were calculated, each was increased by 7.05 percent to account for the Federal pay raise of October 1977. A surcharge of 1.5 percent of the base cost plus pay raise was added to cover the cost of initial inspections of stations necessary for initial "approval" and routine inspections, necessary when stations are vacant, for maintaining approval.

The resulting totals were increased by 19.09 percent, the percentage of Animal and Plant Health Inspection Service's fiscal year 1977 funds used for overhead. The overhead includes all administration costs such as regional and area offices, headquarters staff, Office of the Deputy Administrator and Administrator and all support functions such as budget and personnel operations.

Fiscal year 1977 was determined to be the base year because it is the most recent complete year for which figures are available and should approximate the costs to be expected during fiscal year 1979. These approximate costs were $251.56 for entry of each shipment of birds; $1,834.04 for quarantine and inspection of each lot; security was $5.30 per hour; and laboratory costs were $11.76 per sample, plus actual shipping charges. Further, if work is performed outside the regular tour of duty of the employee providing the required services, overtime charges must be paid in accordance with the provisions of 9 CFR Part 97.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

In § 92.11, a new paragraph (g) is added and the second sentence of paragraph (f) is amended to read:

§ 92.11 Quarantine requirements.

* * * * *

(f) *Standards for approved quarantine facilities and handling procedures for importation of birds.* * * * The cost of the facility and all costs associated with the maintenance and operations of such facility shall be borne by the importer in accordance with the provisions of § 92.11(g) and § 92.12 (a) and (c).

* * * * *

(g) *Charges for services.* The charges to be borne by importers for services provided for quarantine facilities approved in accordance with § 92.11(f) of this part shall be:

(1) The total Veterinary Services employee's time at the appropriate GS hourly rate of such employee to actually perform the service, including his travel time and his travel expenses; *Provided, however,* Such time and travel expense shall not exceed the time and travel expense to and from his official duty station; [14]

(2) Laboratory costs at $11.76 per sample, plus shipping charges per sample, and;

(3) A surcharge for overhead based on the most current historical data available showing the percentage of APHIS funds expended for administrative support.

These amendments should be made effective on October 1, 1978, to be of maximum benefit to affected persons.

Done at Washington, D.C., this 8th day of August 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

J. K. ATWELL,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-22429 Filed 8-8-78; 11:59 am]

[14] If work is done outside the regular tour of duty of the employee providing the service, overtime charges must be paid in accordance with 9 CFR Part 97.

Slip Laws

Subscriptions Now Being Accepted

95th Congress, 2d Session, 1978

Separate prints of Public Laws, published immediately after enactment, with marginal annotations, legislative history references, and future Statutes volume page numbers.

Subscription Price: **$110.00 per session**

(Individual laws also may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Prices vary. See Reminder Section of the Federal Register for announcements of newly enacted laws and prices).

SUBSCRIPTION ORDER FORM
ENTER MY SUBSCRIPTION TO: PUBLIC LAWS. [PULA-File Code 1L]

☐ $110.00 Domestic; ☐ $137.50 Foreign.

PLEASE PRINT OR TYPE

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY | STATE | ZIP CODE

(or) COUNTRY

MAIL ORDER FORM TO:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

☐ Remittance Enclosed (Make checks payable to Superintendent of Documents)

☐ Charge to my Deposit Account No. .....